

Freedom Court Reporting, Inc

CASE NO. 2:08-cv-422 TJW

5 PATTY BEALL, MATTHEW MAXWELL, TALINA McELHANY
6 and KELLY HAMPTON, individually and on
behalf of all others similarly situated.

8 Plaintiffs,

vs.

TYLER TECHNOLOGIES, INC., and EDP ENTERPRISES, INC.,

Defendants.

11

14 DEPOSITION OF: KEVIN MOSENTHIN

15 DATE TAKEN: Thursday, September 9, 2010

16 TIME: 9:45 a.m. - 12:30 p.m.

17 PLACE: 500 S. Australian Avenue
Suite 600
18 West Palm Beach, Florida 33401

19 TAKEN BY: The Defendants

20 REPORTED BY: DENISE T. MEDINA, RMR
Court Reporter and Notary
21 Public

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1 Q. And because your testimony is being taken down
2 in a transcript, I need you to continue as you have been
3 doing so far and provide audible answers as opposed to
4 shrugs of the shoulders and that kind of thing. Is that
5 agreeable?

6 A. Yes.

7 Q. I have, as hopefully your attorney can
8 testify, I have taken other depositions of people that
9 held jobs that at least had similar titles to yours. So
10 I know a little bit about or at least I think I know a
11 little bit about what you may or may not have done at
12 Tyler. But there may be times when I ask you a question
13 that you don't understand because I'm using a term
14 incorrectly. I think in one of the depositions, for
15 example, I was saying configuration when I meant
16 conversion. That type of thing.

17 If that happens today during the deposition,
18 would you let me know so that I can clarify my question
19 or ask you a different question?

20 A. Sure.

21 Q. What is your current residential address?

22 A. 9522 Southeast Jordan Way.

23 Q. Is that here in West Palm?

24 A. Hobe Sound. H-o-b-e.

25 Q. And when you worked for Tyler, did you work

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1 out of your home?

2 A. Yes, I did. I had previously, when I first
3 started working for Tyler, I was, actually, my residence
4 was in Massachusetts. So I was working out of their
5 Northeast division -- actually, let me clarify that. I
6 was working out of the Northeast division. We had an
7 office about -- again, this was before, this was before
8 the time period. But when I first started, that would
9 have been in 2002, I believe.

10 Q. Right.

11 A. I worked essentially out of the West Palm --
12 or I mean -- not West Palm.

13 Q. Westborough?

14 A. The Westborough office.

15 Q. Okay. And let me make sure I have the dates
16 of your employment with Tyler correct.

17 A. It would have been January or February of '02
18 I believe through September of '07.

19 Q. Right. That's what I had. If I told you
20 January 21st of 2002, does that sound right?

21 A. That sounds about right, yeah.

22 Q. One other thing for the purposes of the court
23 reporter and the record is if we could try to avoid
24 talking over one another. I know it is easy to do.
25 Sometimes I'm going to ask you a question that you are

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1 going to kind of know where I'm going.

2 A. Sure.

3 Q. And there may be times when I think you are
4 finished with your answer when you're not. If we could
5 try to agree not to talk over one another so that the
6 court reporter won't be mad at us and have a clear
7 record. Is that agreeable?

8 A. I'll do my best.

9 Q. Okay. So did you transfer from Westborough
10 down to Florida?

11 A. Yes.

12 Q. Did you work, were you working out of a
13 different office at that time?

14 A. When I transferred from that office down to
15 Florida, essentially I was, I'm not sure it happened
16 right away. But shortly thereafter essentially my, who
17 I was reporting to changed from a manager up there to a
18 manager in the North Carolina office.

19 Q. And when you say "a manager," do you mean a
20 project manager?

21 A. Project manager.

22 Q. And you understood that change in supervisor
23 to be associated with your move to Florida?

24 A. Yes and no.

25 Q. Why yes and why no?

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1 on some of these concepts. These different, as I
2 understand it, well, when you talk about utility
3 billing, business licenses and tax programs, those are
4 all modules out of the MUNIS software package that
5 Tyler --

6 A. That is correct.

7 Q. [And throughout your employment with Tyler, you
8 supported MUNIS software?]

9 A. [Correct. Exclusively.]

10 Q. Was the person that you couldn't, you can't
11 recall their name who became your supervisor some few
12 months after you moved to Florida, was that person out
13 of a different office than the Westborough,
14 Massachusetts, office?

15 A. Yes. They were out of the North Carolina
16 office.

17 Q. Okay. That's Raleigh?

18 A. Yes. Raleigh.

19 Q. I don't think we've really answered this. But
20 why did you move?

21 A. I was getting married.

22 Q. Okay. And how did you ask for that transfer
23 within Tyler?

24 A. I'm not sure exactly. I believe I had, I had
25 just brought it up, and essentially the attitude was it

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1 wrong, and I'll let you correct me if I am. It sounds
2 like there was several, different programs or modules
3 that you were supporting around this period of time in
4 which there were, as you put it, kind of low demand
5 where there weren't a full team of implementers. And
6 was the idea, then, to have you be a project manager to
7 run the implementation process with respect to those
8 programs?

9 A. Not exactly. It was, it wasn't really formed
10 in that, that way.

11 Q. How was it formed?

12 A. There had, there had been some other teams
13 that had done their own self-project managing, and it
14 was, it was brought up of maybe we could go that path.
15 But there had been a lot of changes in the company as
16 far as what requirements would constitute becoming a
17 project manager. For example, prior to that, there was
18 no set course of this is what you have to do to become a
19 project management. The company was going through a
20 transition at that point where they had paid a lot of
21 money to go through these I believe PMI or project
22 management classes.

23 And so suddenly the requirements of being able
24 to put on the official title and actually do those
25 duties suddenly became hugely, almost like going through

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1 a college course to be able to go there.) When we first
2 had looked at that, that was not the requirements of
3 becoming a project management.) (Essentially being a)
4 project manager was simply managing, managing both
5 yourself and your schedule.) (That was more so the, what
6 a project manager was when we first looked at trying to
7 go that way.)

8 That was also at some point during the
9 transition when we were, when we were looking at taking
10 me off that product to putting me on to some new ones,
11 and then the decision was made, "No." We will put you on
12 a formal team under a project manager and kind of try to
13 go that way as far as giving you the responsibilities."
14 However, again, due to somewhat the lack of demand on
15 some of those products, it was really never extended to
16 me to explore that option very far.)

17 Q. Okay. So at some point, you were on some type
18 of path to be potentially a project manager?

19 A. I would say from my perspective probably more
20 (so in words than in actions).

21 Q. Okay. But in terms of the words, you were
22 told that you would be put on a path to be a project
23 manager?

24 A. I would be on a path to be considered to be a
25 project manager.)

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1 Q. Do you, did you as an implementation
2 specialist get involved with explaining different
3 alternatives and options within the business licensing
4 software?

5 A. No. Typically that would be, that would have
6 been discussed prior to my arrival.

7 Q. And would that be unique with respect to
8 business licensing or not?

9 A. Business license is probably more of a
10 cookie-cutter project. So there typically isn't so much
11 give and take and so many options. More so it is what
12 it is.

13 Q. And just so that -- I know we touched on
14 this -- but you were supporting business licensing
15 during what period? This is after you moved to Florida?

16 A. Correct.

17 Q. And you supported it, that product from July
18 of '07 through your separation from employment?

19 A. No. No. It was -- no. It was prior to that.
20 It would have been about the time I moved down there.
21 It was, when I was first down there and I was doing some
22 of the tax products, I also did a couple of business
23 licenses, but they were very, it was not a very robust
24 product at that time. It was not very, it was not very
25 well sold and purchased. So it was hit or miss. By

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1 Q. Let's assume that it's the latter. I'm a
2 non-technical person.

3 A. Then configuration could be as simple as
4 putting in, you know, the client's name in their
5 software.

6 Q. Other implementers I'll tell you have used the
7 term setting up parameters.

8 A. Yeah. That's probably a good way of
9 describing it.

10 Q. Did you do that type of work?

11 A. Right.

12 Q. Okay.

13 A. The setting up -- let's clarify parameters.
14 You know, setting up their names, setting up the initial
15 software based on what the parameters call for that.

16 Q. That's something you did?

17 A. Yes.

18 Q. (You didn't have any role in installing)
19 (software or hardware?)

20 A. No. No.

21 Q. I got a double negative there. (It is a true)
22 statement that you did not have any role in installing
23 either hardware or software?)

24 A. (True, I did not install hardware or software.)

25 Q. (Thank you.) You can use Tuscaloosa if you'd

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1 business licensing module to six, different components.
2 And I understand there was some overlap I think based on
3 your previous testimony. For example, you said that
4 configuration had sometimes overlapped with the
5 training. So I want to be fair to your previous
6 testimony. Would it be, I think I understood from your
7 previous testimony that the bulk of the time that you
8 spent while you were supporting the business licensing
9 module was in the actual training?

10 A. Correct.

11 Q. If we had to put a percentage on that, would
12 you say 80 percent?

13 A. I would say that's probably fair.

14 Q. Going back to your performance review where
15 you talk about the success with Tuscaloosa, what about
16 it, that particular project made it in your mind a
17 successful one?

18 A. They were a very difficult client. And I
19 believe I had alluded to it that three times they had
20 specifically requested that I be back at their site. So
21 they worked well with me. Though they were difficult
22 and a very particular client, that in itself was
23 noteworthy. The other thing is with that long of a
24 project, obviously it's, things can, you know, get out
25 of hand and get them upset. I mean, they had been upset

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1 A. Yes.

2 Q. And you talk about three clients, Redondo
3 Beach, Lakewood, California, and San Carlos, California.
4 Those aren't necessarily the same clients you were
5 talking about where they specifically asked for you?

6 A. I'm not sure if that's what I was referring to
7 or not.

8 Q. On the second page, the second numbered page
9 after "Review" at the bottom, it says that, "During the
10 Tuscaloosa project, Kevin worked closely with other
11 MUNIS departments, conversion and development and the
12 client." What was your working with the conversion and
13 development department -- is that what we talked about
14 before?

15 A. Correct. Where they got it wrong.

16 Q. With respect to the codes?

17 A. Yeah.

18 Q. The next sentence -- I'm going back to Page 5
19 of the review -- it talks about you say that you were
20 responsible for manning your own schedule.) (What did you
21 mean by that?)

22 A.) Well, at that time, I still had a project
23 manager.) (So it wasn't like I was booking my own.) (It
24 probably, depending on your perspective, from probably
25 the perspective of where I was saying this on

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1 (essentially my rebuttal to that, was that the fact that
2 (I was given a little more freer, I was given a little
3 (freer hand to work with some of the clients, but I was
4 (still, I was still being managed under a project
5 (manager, and they were still setting my billable days
6 (and still setting my schedule.)

7 Q. So what did you do to manage your schedule?

8 What did you mean by that?

9 A. I believe what I was alluding to was some of
10 these previous clients that had been a year, maybe a
11 year prior to that -- I'm not sure of some of those
12 dates -- but basically trying to schedule the follow-ups
13 a little bit as far as roll-out of when we were going
14 over certain things. Essentially that would, that was
15 given a little freer hand there.

16 Q. Okay. And was that part of your transition to
17 becoming a project manager?

18 A. No.

19 Q. Or was that just something you developed over
20 time?

21 A. That was basically something I developed more
22 over time. And the project managers at the time
23 basically just let me have a freer hand. But nothing
24 was spoken of, "Okay. Well, now you're acting as a
25 project manager," et cetera.

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1 Q. When you say "a freer hand," you're talking
2 about with respect to scheduling?

3 A. Yes.

4 Q. Scheduling your arrival at the customer?

5 A. Scheduling my arrival and scheduling what we
6 are going to go over on certain days.

7 Q. In other words, what the training agenda would
8 be?

9 A. More so.

10 Q. More so than --

11 A. More so than in the latter times where
12 basically the schedule was given to me and said, "This
13 is the schedule you'll follow."

14 Q. (You're saying that during the review period
15 you were given freer latitude to set this training
16 schedule with the customer?)

17 A. With that previous manager.)

18 Q. I'm sorry.) With that previous manager?

19 A. Not with Ginger.) With the manager I had prior
20 (to Ginger.) (These clients that I'm referring to with
21 (Tuscaloosa, Redondo Beach, Lakewood, those were not
22 projects under Ginger.) Those were projects under the
23 person whose name keeps eluding me.)

24 Q. Okay.) And it's under those projects where you
25 (were responsible for organizing various projects very

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1 (much on your own?)

2 (A.) (I wasn't responsible for it.) (I was just given)
3 a freer hand.) (But I still, you know, I still didn't)
4 book my billable days.) (I still didn't, you know, she)
5 (just, she just, she just wasn't as regimented.) (It was)
6 probably just management style different.) (But she just)
7 (gave me a freer hand in saying, "Here is my billable)
8 (days.") (If I'm there for three days, she wasn't)
9 (dictating to me how those three days broke up.)

10 (Q.) (Okay.) (You were determining that in)
11 (consultation with the customer?)

12 (A.) (Correct.)

13 MS. BAGLEY: Form.

14 BY MR. McKEEBY:

15 Q. And would that consultation be something that
16 occurred before you arrived at the customer site or
17 typically during initial meetings?

18 A. It was not that I did anything differently for
19 the client's perspective. It was more so of, internally
20 of how the days transitioned probably more internally
21 for Tyler's sake of what I was doing versus what the
22 project manager was doing as opposed to what the client
23 was seeing. In other words, the training and everything
24 was the same as it had been. All of that stuff had been
25 exactly the same.

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1 CERTIFICATE OF OATH

2 STATE OF FLORIDA:

3 COUNTY OF PALM BEACH:

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6 I, DENISE T. MEDINA, a Registered Merit
7 Reporter, Notary Public, State of Florida, do hereby
8 certify that KEVIN MOSENTHIN personally appeared before
9 me on Thursday, September 9, 2010, and was duly sworn.

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11 Signed this 13th day of September, 2010.

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17 DENISE T. MEDINA
18 Notary Public - State of Florida
19 My Commission No. DD854663
20 Expires: 4/25/13

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1 CERTIFICATE OF DEPOSITION TRANSCRIPT

2 STATE OF FLORIDA:

3 COUNTY OF PALM BEACH:

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5 I, DENISE T. MEDINA, a Registered Merit
6 Reporter, Notary Public, State of Florida, certify that
7 I was authorized to and did stenographically report the
deposition of that a review of the transcript was
requested; and that the foregoing transcript, pages 5
through 114, is a true and accurate record of my
8 stenographic notes.

9

10 I further certify that I am not a relative, or
employee, or attorney, or counsel of any of the parties'
attorney or counsel connected with the action, nor am I
11 financially interested in the action.

12

13 DATED this 13th day of September, 2010.

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DENISE T. MEDINA
18 Notary Public-State of Florida
My Commission No. DD854663

19 Expires: 4/25/13

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